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Report of the United Nations Commission on International Trade Law on the work of its fifty-first session

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Report of the United Nations Commission on International Trade Law on the work of its fifty-first session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

Having considered the report of the Commission,[1]

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of

[1] *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17* (A/73/17).

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promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law;[1]

2. *Commends* the Commission for the finalization of the draft convention on international settlement agreements resulting from mediation;[2]

3. *Also commends* the Commission for the finalization and adoption of the Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation,[3] the Legislative Guide on Key Principles of a Business Registry[4] and the Model Law on Recognition and Enforcement of Insolvency-Related Judgments and its Guide to Enactment;[5]

4. *Notes with appreciation* the event held to mark the sixtieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention of 1958),[6] at which it was acknowledged that the Convention, with its almost universal acceptance, brings legal certainty to business operations worldwide, thereby contributing to decreasing the level of risk and transactional costs associated with international trade, furthering the Sustainable Development Goals[7] and, by establishing a fundamental legal framework for the use of arbitration and its effectiveness, strengthens respect for binding commitments, inspires confidence in the rule of law and ensures fair treatment in the resolution of disputes arising over contractual rights and obligations;[8]

5. *Notes with satisfaction* the contributions from the Fund for International Development of the Organization of the Petroleum Exporting Countries and from the European Commission, which allow the operation of the repository of published information under the Rules on Transparency in Treaty-based Investor-State Arbitration[9] and that the Commission reiterated its strong and unanimous opinion that the secretariat of the Commission should continue to operate the transparency repository, which constitutes a central feature both of the Rules on Transparency and of the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (Mauritius Convention on Transparency);[10]

6. *Requests* the Secretary-General to continue to operate, through the secretariat of the Commission, the repository of published information in accordance with article 8 of the Rules on Transparency, as a pilot project until the end of 2020,

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[2] Ibid., chap. III, sect. B, and annex I.

[3] Ibid., chap. III, sect. C, and annex II.

[4] Ibid., chap. IV, sects. B and C.

[5] Ibid., chap. V, sect. A, and annex III.

[6] United Nations, *Treaty Series*, vol. 330, No. 4739.

[7] See resolution 70/1.

[8] See *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17* (A/73/17), chap. X.

[9] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), annex I.

[10] Resolution 69/116, annex.

to be funded entirely by voluntary contributions, and to keep the General Assembly informed of developments regarding the funding and budgetary situation of the transparency repository based on its pilot operation;

7. *Takes note with interest* of the decisions taken by the Commission as regards its future work and the progress made by the Commission in its work in the areas of micro, small and medium-sized enterprises, dispute settlement, investor-State dispute settlement reform, electronic commerce, insolvency law and security interests and privately financed infrastructure projects,[11] as well as the decisions to take up work on expedited arbitration and, as its next priority, the judicial sale of ships, to conduct exploratory and preparatory work on warehouse receipts, to compile information on legal issues related to the digital economy aimed at enabling the commercial use of new technologies and methods and assisting developing economies in bridging the digital gap, and to undertake exploratory work on contractual networks and the civil law aspects of asset tracing and recovery,[12] and encourages the Commission to continue to move forward efficiently to achieve tangible work outcomes in those areas;

8. *Welcomes* the decision by the Commission to give Working Group IV a more specific mandate to conduct work on legal issues in the area of identity management and trust services with a view to facilitating cross-border recognition of identity management and trust services on the basis of the principles and issues identified by the Working Group at its fifty-sixth session,[13] and takes note of the decision of the Commission to request the Secretariat to prepare, within existing resources, a pilot online tool containing the draft notes on the main issues of cloud computing contracts, for consideration at its next session, in 2019;[14]

9. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law and at promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

10. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical cooperation and assistance in the field of international trade law reform and development, and in this connection:

(a) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical cooperation and assistance programme, in that respect encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work, and notes in that regard the round table on technical assistance held during the fifty-first session of the Commission, which brought together governmental and intergovernmental organizations active in international development assistance to explore synergies and discuss ways to further cooperate with the secretariat of the Commission in implementing sound reforms of international trade law;

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[11] See *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17* (A/73/17), chaps. IV–IX.

[12] Ibid., chap. XVII, sects. A and B.

[13] Ibid., chap. VIII, para. 159.

[14] Ibid., para. 155.

(b) Expresses its appreciation to the Commission for carrying out technical cooperation and assistance activities and for providing assistance with legislative drafting in the field of international trade law, and draws the attention of the Secretary-General to the limited resources that are made available in this field;

(c) Expresses its appreciation to the Governments whose contributions enabled the technical cooperation and assistance activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law trust fund for symposia and, where appropriate, for the financing of special projects and otherwise to assist the secretariat of the Commission in carrying out technical cooperation and assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical cooperation and assistance programme of the Commission and to cooperate with the Commission and coordinate their activities with those of the Commission in the light of the relevance and importance of the work and programmes of the Commission for the promotion of the rule of law at the national and international levels and for the implementation of the international development agenda, including the achievement of the 2030 Agenda for Sustainable Development;[15]

(e) Recalls its resolutions stressing the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building, and welcomes the efforts of the Secretary-General to ensure greater coordination and coherence among United Nations entities and with donors and recipients;

11. *Recalls* the importance of adherence to the rules of procedure and methods of work of the Commission, including transparent and inclusive deliberations, taking into account the summary of conclusions as reproduced in annex III to the report on the work of its forty-third session,[16] requests the Secretariat to issue, prior to meetings of the Commission and of its working groups, a reminder of those rules of procedure and methods of work with a view to ensuring the high quality of the work of the Commission and encouraging the assessment of its instruments, recalls in this regard its previous resolutions related to this matter, and notes that the Commission, during its fifty-first session, welcomed a joint comprehensive proposal submitted by Member States on its methods of work, including to use information-only documents on matters not requiring in-depth discussions, to apply a flexible approach to the allocation of meeting days with the goal of finalizing instruments and subsequently making decisions on future work in consecutive sessions of the Commission, to conduct a more efficient discussion of the topic of the role of the Commission in the promotion of the rule of law and to explore the possibility of reducing the duration of Commission sessions to two weeks, when possible and subject to the need for finalization of ongoing projects by the Commission, all aimed at enhancing the efficiency of the Commission's work as well as reducing the burden on delegations, and to streamline and focus the Commission's agenda and preparation for the session,

[15] Resolution 70/1.

[16] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17).

and notes in that respect that the Secretariat was requested to plan and prepare for the fifty-second session of the Commission, in 2019, on the basis of that proposal;[17]

12. *Welcomes* the activities of the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific, in the Republic of Korea, towards providing capacity-building and technical assistance services to States in the Asia-Pacific region, including to international and regional organizations, expresses its appreciation to the Republic of Korea and China, whose contributions enabled continuing operation of the Regional Centre, notes that the continuation of the regional presence relies entirely on extrabudgetary resources, including but not limited to voluntary contributions from States, welcomes expressions of interest from other States in hosting regional centres of the Commission, and requests the Secretary-General to keep the General Assembly informed of developments regarding the establishment of regional centres, in particular their funding and budgetary situation;

13. *Notes* that, further to the offer of the Government of Cameroon in 2017, approved by the Commission, to establish, subject to the relevant rules and regulations of the United Nations and the internal approval process of the Office of Legal Affairs, a regional centre for Africa in Cameroon,[18] the Government of Cameroon is continuing to examine the financial implications and the feasibility of establishing that regional centre, and encourages the secretariat of the Commission to continue its consultations and consider carefully the level of human resources that it would need for the efficient management of any new regional centre and for ensuring adequate supervision by, and coordination with, Vienna-based secretariat staff,[19] and requests the Commission, in its annual report, to keep the General Assembly informed of developments regarding the project, in particular its funding and budgetary situation;

14. *Appeals* to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, in order to enable renewal of the provision of that assistance and to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in those countries to put in place a regulatory and enabling environment for business, trade and investment;

15. *Decides*, in order to ensure full participation of all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the seventy-third session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General, and notes the contributions from the European Union and the Swiss Agency for Development and Cooperation to the trust fund, which would facilitate the participation of representatives of developing States in the deliberations of Working Group III;

16. *Endorses* the conviction of the Commission that the implementation and effective use of modern private law standards in international trade are essential for advancing good governance, sustained economic development and the eradication of poverty and hunger and that the promotion of the rule of law in commercial relations

[17] Ibid., *Seventy-third Session, Supplement No. 17* (A/73/17), chap. XVIII, sect. A.
[18] Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 293.
[19] Ibid., *Seventy-third Session, Supplement No. 17* (A/73/17), para. 200.

should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit in the Executive Office of the Secretary-General;

17. *Notes* the role of the Commission in promoting the rule of law, respective activity in the Commission at its fifty-first session[20] and the comments transmitted by the Commission, pursuant to paragraph 25 of General Assembly resolution 72/119 of 7 December 2017, highlighting the role in the promotion of the rule of law of the texts adopted or approved by the Commission and of its ongoing work, in particular through wide dissemination of international commercial law, including across the United Nations system;[21]

18. *Notes with satisfaction* that, in paragraph 8 of the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, adopted by consensus as resolution 67/1 of 24 September 2012, Member States recognized the importance of fair, stable and predictable legal frameworks for generating inclusive, sustainable and equitable development, economic growth and employment, generating investment and facilitating entrepreneurship and, in this regard, commended the work of the Commission in modernizing and harmonizing international trade law and that, in paragraph 7 of the declaration, Member States expressed their conviction that the rule of law and development were strongly interrelated and mutually reinforcing;

19. *Also notes with satisfaction* that, in paragraph 89 of the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, adopted by the General Assembly by consensus as resolution 69/313 of 27 July 2015, States endorsed the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law and at promoting the rule of law at the national and international levels in this field;

20. *Reiterates its request* to the Secretary-General, in conformity with resolutions of the General Assembly on documentation-related matters,[22] which, in particular, emphasize that any invitation to limit, where appropriate, the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and functions of the Commission in the progressive development and codification of international trade law when implementing page limits with respect to the documentation of the Commission;[23]

21. *Requests* the Secretary-General to continue the publication of Commission standards and the provision of summary records of the meetings of the Commission, including committees of the whole established by the Commission for the duration of its annual session, relating to the formulation of normative texts, and takes note of the decision of the Commission to continue the trial use of digital recordings, in parallel with summary records where applicable, with a view to assessing the experience of using digital recordings and, on the basis of that assessment, taking a

[20] Ibid., paras. 230 and 231.

[21] Ibid., chap. XV.

[22] Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

[23] See resolutions 59/39, para. 9, and 65/21, para. 18; see also *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 124–128.

decision at a future session regarding the possible replacement of summary records by digital recordings;[24]

22. *Recalls* paragraph 48 of its resolution 66/246 of 24 December 2011 regarding the rotation scheme of meetings between Vienna and New York;

23. *Stresses* the importance of promoting the use of texts emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to conventions, enacting model laws and encouraging the use of other relevant texts;

24. *Notes with appreciation* the work of the Secretariat on the system for the collection and dissemination of case law on Commission texts in the six official languages of the United Nations (the CLOUT system), notes the resource-intensive nature of the system, acknowledges the need for further resources to sustain and expand it, and in this regard welcomes efforts by the Secretariat towards building partnerships with interested institutions, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to assist the secretariat of the Commission in raising awareness as to the availability and usefulness of the CLOUT system in professional, academic and judiciary circles and in securing the funding required for the coordination and expansion of the system and the establishment, within the secretariat of the Commission, of a pillar focused on the promotion of ways and means of interpreting Commission texts in a uniform manner;

25. *Welcomes* the continuing work of the Secretariat on digests of case law related to Commission texts, including their wide dissemination, as well as the continuing increase in the number of abstracts available through the CLOUT system, in view of the role of the digests and the CLOUT system as important tools for the promotion of the uniform interpretation of international trade law, in particular by building local capacity of judges, arbitrators and other legal practitioners to interpret those standards in the light of their international character and the need to promote uniformity in their application and the observance of good faith in international trade, and notes the satisfaction of the Commission with the performance of the New York Convention website[25] and the successful coordination between that website and the CLOUT system;

26. *Recalls* its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment,[26] commends the fact that the website of the Commission is published simultaneously in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website, including by developing its latest updated version, and to enhance the visibility of its work by utilizing social media features in accordance with the applicable guidelines.[27]

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[24] See *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17* (A/69/17), para. 276.

[25] www.newyorkconvention1958.org.

[26] Resolutions 52/214, sect. C, para. 3; 55/222, sect. III, para. 12; 56/64 B, sect. X; 57/130 B, sect. X; 58/101 B, sect. V, paras. 61–76; 59/126 B, sect. V, paras. 76–95; 60/109 B, sect. IV, paras. 66–80; and 61/121 B, sect. IV, paras. 65–77.

[27] See resolution 63/120, para. 20.